

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF BOISE CHURCH)	APPEAL NO. 06-A-2029
OF CHRIST from the decision of the Board of)	AMENDED
Equalization of Ada County for tax year 2006.)	FINAL DECISION
)	AND ORDER

RELIGIOUS EXEMPTION APPEAL

THIS MATTER came on for hearing August 23, 2006, in Boise, Idaho, before Board Member Lyle R. Cobbs. Board Member David E. Kinghorn participated in this decision. Deacon Scott Shappard and Campus Minister Howard Jones, Jr. appeared for Appellant. Attorney Julie D. Reading appeared for Respondent Ada County. This appeal is taken from a decision of the Ada County Board of Equalization denying the exemption claim for taxing purposes of property described as Parcel No. R8048012500.

The issue on appeal is whether subject property qualifies for an exemption from property taxes pursuant to Idaho Code § 63-602B.

The decision of the Ada County Board of Equalization is reversed.

FINDINGS OF FACT

The assessed land value is \$67,100. The parcel has no assessment attributed to an improvement category. Appellant requests the parcel be fully exempted from taxation, or in lieu of full exemption, a prorated exemption be granted. The County maintains no proration is permitted under the statutory language.

The subject property is .28 acres in size and improved with 28 paved parking spaces. The subject parcel is associated with an 'adjacent' parcel containing additional parking and a building. Together the two parcels comprise facilities commonly referred to as the Biblical Studies Center, the campus ministry of Appellant. The campus ministry dates back to the 1960's. About 1973, the subject facilities were acquired and put into use by the church. The subject parcel was

acquired to comply with city parking standards.

On January 1, 2006 Appellant began leasing 15-20 of subject's parking spaces for use by nearby businesses, though there is only one lease with one party. Again, city parking standards were a driving force in the origination of the lease. The parking space lease was provided as a hearing exhibit (Appellant's Exh. No. 1.) The agreement was entered into on February 6, 2006. The "term" of the 5-year lease and the obligation of rent commenced on "January 1, 2006." Appellant uses the rental receipts from the parking spaces to pay for capital improvements or property maintenance.

The parking lot has also been leased on a space-by-space cash basis during home football games at the university located across the street. This intermittent use is a student fundraiser activity. The County provided that if the leased parking was not present on January 1, 2006 -- the 2006 assessment and lien date -- there would be no legal problem with a full exemption grant and such would have been awarded. Subject was previously exempted for many years. As noted by Respondent in its post hearing brief, the facts of this case are undisputed.

It is the County's contention because Idaho Code § 63-602B states that property be used "exclusively" for religious purposes, and does not speak to "apportionment", a commercial-like lease whereby neighbors use some of the parking spaces negates any religious exemption.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value or exempt status. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Strict but reasonable construction is long established with property tax exemptions. To this standard we must interpret and apply Idaho Code § 63-602B (2006), titled “Property exempt from taxation -- Religious corporations or societies”. The text of the statute provides in full as follows.

The following property is exempt from taxation: property belonging to any religious corporation or society of this state, used exclusively for and in connection with public worship, and any parsonage belonging to such corporation or society and occupied as such, and any recreational hall belonging to and used in connection with the activities of such corporation or society; and this exemption shall extend to property owned by any religious corporation or society which is used for any combination of religious worship, educational purposes and recreational activities, not designed for profit.

Also specially pertinent to this case is Section 63-205(1), I.C. which provides:

(1) All real, personal and operating property subject to property taxation must be assessed annually at market value for assessment purposes as of 12:01 a.m. of the first day of January in the year in which such property taxes are levied, except as otherwise provided. Market value for assessment purposes shall be determined according to the requirements of this title or the rules promulgated by the state tax commission.

Though the above section speaks to market value, the assessment (lien) date is the same for determining this case. Property is assessed (or exempt) based on its ownership, and in this case use too, as of January 1, 12:01 a.m. each year. See also Idaho Code § 63-602(3) whereby the County Board of Equalization must annually review all exemptions.

The use of parking spaces did not clearly change from exclusively religious (exempt) purposes until February 2006. It was the new, long-term lease of parking spaces that triggered a special county review and ultimately denial of subject parcel's previously exempt status from property taxes. The lease in question was executed (commenced) on February 6, 2006 over one month past the assessment date.

The County sometimes characterized the parking lease as fully in effect on January 1,

2006. This Board has often considered information, both in exemption and value cases, prior to and leading up to the assessment date of any given year. However, we hold it unfair and unjust to take future information and apply it backwards in time as is suggested here by the County and the circumstances of this case. The record reveals the Church had received nothing of material value as of the assessment date and time. There was no clear evidence of an enforceable lease at the first of the year.

For the above reasons and conclusions the Board will reverse the Ada County Board of Equalization and order the subject parcel exempted for 2006.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Ada County Board of Equalization concerning the subject parcel be, and the same hereby is, reversed resulting in a full exemption grant.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

DATED this 13th day of February , 2007.